

**AGENDA
ZONING BOARD OF ADJUSTMENT
JANUARY 6, 2020**

**AGENDA ITEM #4A
PUBLIC HEARING**

**JOANN & STEPHEN
ALLAN,
7 CENTRAL STREET
(Tax Map 72, Lot 64),
zoned CBD
ZB2020-01-SE**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

ZONING BOARD OF ADJUSTMENT

January 6, 2020 Meeting

Staff Memorandum – #ZB20120-01-SE

APPLICATION INFORMATION

Agenda Item: 4.A

Application Type:

Special Exception per Section 703.1 to change one non-conforming use to a different non-conforming use

Location:

7 Central St (Tax Map 72, Lot 64)

Applicant/Property Owner:

Joann & Stephen Allan

Zoning District:

Central Business (CB) District

Property Size:

+/-0.22 acres (9,583 sq. ft.) (per the City Assessor's records)

Existing Improvements and Use:

3,000 sq. ft. commercial building constructed in 1965, most recently used as a warehouse, a non-conforming use in the CBD (per the City Assessor's records)

Proposed Improvements and Use:

A plumbing and heating service company; no site changes proposed

Overlay Districts: none

Previous ZBA Action (since 1995):
none

Other Approvals Required

(including but may not be limited to):

- Building Permit

Attachments:

Application (3 pages total)

HEARING NOTICE

JOANN & STEPHEN ALLAN, 7 CENTRAL STREET (Tax Map 72, Lot 64), zoned CBD: Applicants request a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the use of the property from a non-conforming warehouse to a non-conforming plumbing and heating service company. #ZB2020-01-SE

BACKGROUND

The subject property is developed with an existing two-story building that was most recently used as a warehouse for Allan's Vending, a non-conforming use in the Central Business District.

PROPOSAL

At this time, the applicants are seeking a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the non-conforming warehouse use a plumbing and heating service company (which is not a permitted use in the Central Business District).

ORDINANCE REQUIREMENTS

Section 702.1 of the Zoning Ordinance states, in part: "A non-conforming use may, as a Special Exception, be changed to another non-conforming use provided that the Board of Adjustment shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use."

In order to grant a Special Exception to change one non-conforming use to a different non-conforming use, the applicants must demonstrate that the proposal meets the general Special Exception criteria, set forth in Section 801.3 as follows:

- A. The Special Exception is specifically authorized by a provision of this Ordinance. *Note: The Special Exception is authorized by §702.1 of the Zoning Ordinance.*
- B. All special conditions required of the special exception have been met. *Note: Per §702.1 of the Zoning Ordinance, the applicant must demonstrate that "the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use."*

Figure 1. Location and Zoning Map.

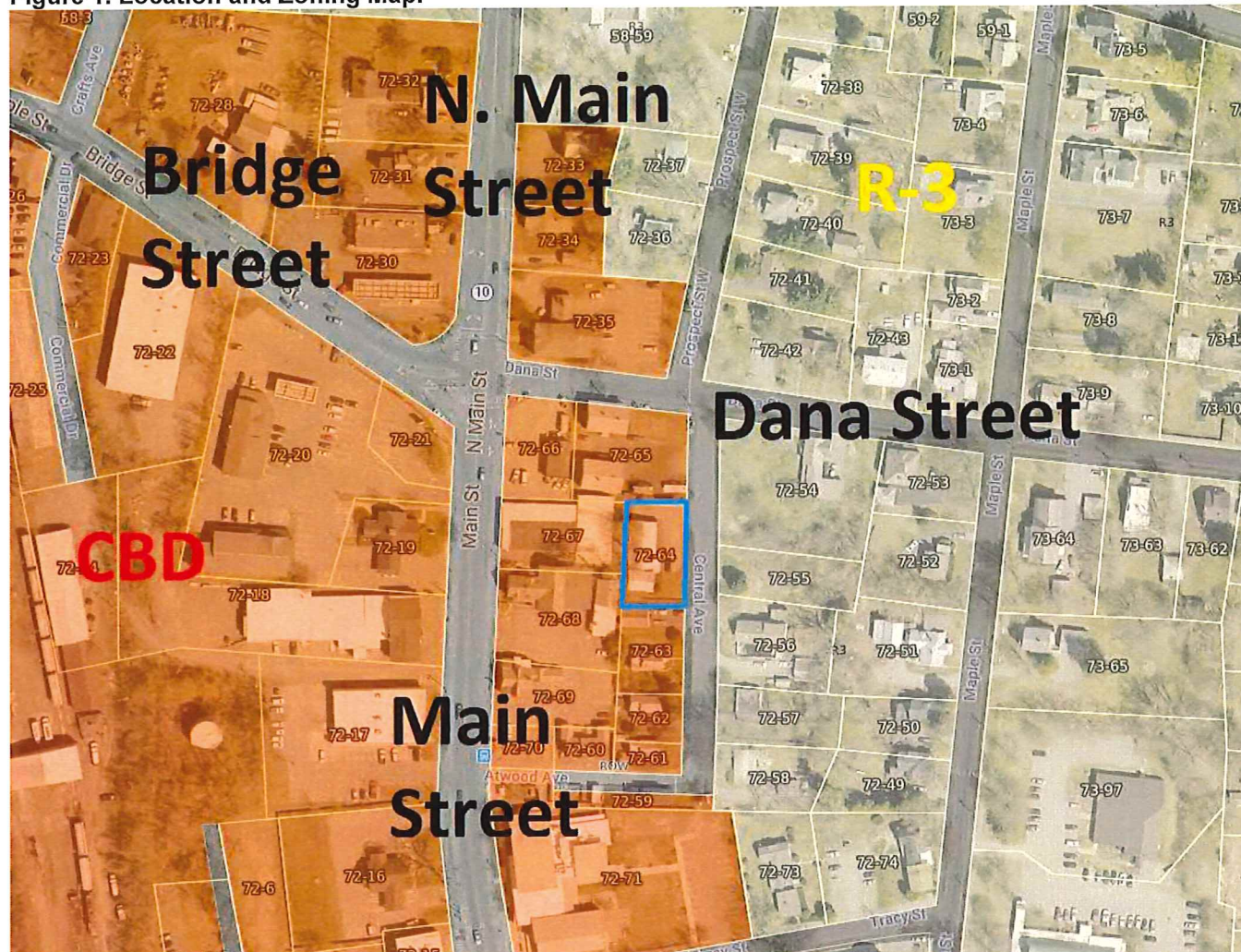


Figure 2. Aerial View of Subject Property (looking west).



©2018 Eagleview (image taken 4/27/2018)

- C. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy. *Note: Staff is not aware of any Zoning Ordinance violations on the property.*
- D. The character of the area shall not be adversely affected.
- E. No hazard or nuisance will be created.
- F. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- G. Granting the special exception will not result in undue municipal expense.
- H. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
- I. The general welfare of the City will be protected.

The applicant has submitted testimony addressing the §801.3 criteria in an application received by the Planning & Development Department on December 10, 2019 (see attached).

STAFF COMMENTS

Staff recommends that the Board require the applicant to produce a site plan to demonstrate that the minimum number of parking spaces required per Section 607 of the Zoning Ordinance can be accommodated on site, in addition to whatever number of parking spaces are needed for service vehicles that will be parked on-site overnight. Note the Section 607 requires 1 parking space per 600 sq. ft. of gross floor area for "other commercial", and 1 parking space per 1000 sq. ft. of gross floor area for "warehouse". Such a requirement could be made a condition of approval.

Attachment

cc: Joann & Stephen Allan, property owners (via e-mail)
Cam Brown, agent (via e-mail)
File

CITY OF LEBANON APPLICATION FOR

SPECIAL EXCEPTION <input checked="" type="checkbox"/>	<input type="checkbox"/> SITE PLAN REVIEW
VARIANCE <input type="checkbox"/>	<input type="checkbox"/> SUBDIVISION
MOTION FOR REHEARING <input type="checkbox"/>	<input type="checkbox"/> LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION <input type="checkbox"/>	<input type="checkbox"/> CONDITIONAL USE PERMIT

☐ OTHER _____

PROPERTY OWNER (APPLICANT):

NAME: Jo Ann Allan + Stephen TEL.#: 802-296-7770
 MAILING ADDRESS: c/o P.O. Box 797, WRJ, VT 05001
 E-MAIL ADDRESS: "JoAnnAllan@allansvending.com"

CO-APPLICANT, AGENT, OR LESSEE:

NAME: CAM BROWN (Broker w/ Long McLaughlin Commercial RE) TEL.#: 603-252-8902
 MAILING ADDRESS: 93 S. MAIN ST. W. Leb. NH 03784
 E-MAIL ADDRESS: "cam.brown@lmsre.com"

PROJECT LOCATION:

TAX MAP #: 72 LOT#: 64 PLOT #: — ZONE: CBD
 STREET ADDRESS OF PROJECT: 7 Central Ave.
 IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

Lease existing building to Jerm's Plumbing & Heating Co.

TYPE OF OCCUPANCY:

EXISTING ☒ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL
 PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL
 IF USE IS **COMMERCIAL** OR **INDUSTRIAL**, PLEASE NOTE **SPECIFIC**
 USE: _____

SIGNATURE BLOCK:

FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on _____, 20____, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: Jo Ann Allan DATE: 11-22-19

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: Jo Ann Allan DATE: 11-22-19

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
12-10-19	72-64	ZB2020-01-SE	\$213.00	12-10-19	17492

**CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION**

One cover application, one abutters list, a filing fee and ten copies of the site plan must accompany this support statement.

I (we) hereby request a Special Exception as provided for in Article(s) ? VII,
Section(s) 702.1, of the Lebanon Zoning Ordinance.

PROJECT DESCRIPTION (Please provide your plans for the property with as much detail as possible with respect to your proposed. You can respond in the space provided, or attach a separate statement.)

Lease entire property at 7 Central Ave.
in W. Leb. to a plumbing service co.
and heating (dba JERM's)

In order to grant a Special Exception, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:

(You can respond in the space provided, or attach a separate statement. Please be prepared to address the conditions with the Board during your public hearing. You must show that you have met all the conditions.)

SECTION 801.3 Special Exceptions - To hear and decide special exceptions to the terms of this ordinance upon matters which the Board is required to pass under this ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

- A. That the special exception is specifically authorized by a provision of this ordinance: yes, as determined with Tim Corwin, it is our understanding that this use as a non-conforming use would be allowed under Section 702.1 within the CBD.
- B. That all special conditions required of the special exception have been met: yes, all conditions as outlined in Section 702 have been satisfied.
- C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy: There are none that we know of at this time.

CITY OF LEBANON, NEW HAMPSHIRE
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION
Page 2

- D. That the character of the area shall not be adversely affected:
It will in no way be adversely affected. There are other
similar commercial uses very close to this property so we believe
this will be a comparable and acceptable new tenant.
- E. That no hazard or nuisance will be created:
No, no anticipated hazard or ~~nuisance~~ nuisance will
be created by this tenant. They will operate during normal
business hours during weekdays and are normally closed on
weekends.
- F. That the capacity of existing or planned community facilities and services
(including streets and highways) will not be adversely impacted:
They will not be affected or
adversely impacted in any way.
- G. That granting the special exception will not result in undue municipal
expense:
Correct. We do not see any reason how this use
and this tenant would be responsible for any undue municipal
expense.
- H. That the proposed special exception will be developed in a manner
compatible with the spirit and intent of the ordinance:
Yes, as we have thoroughly read the ~~ordinance~~
ordinance, we confirm that the property will remain and be
utilized as it has been for the past 40 years.
- I. That the general welfare of the City will be protected:
Yes! No changes
of character ~~and~~ or general use of the property will change.

Please Note:

Pursuant to Section 802.4B, "Special Conditions", the Board may attach whatever conditions it deems necessary in order to assure compliance with the purposes of this ordinance.

A special exception shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a special exception must be completed.